

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

NATIONAL RAILROAD PASSENGER)	
CORPORATION,)	
Plaintiff,)	
)	03 Civ.12440-DPW
v.)	
)	
5,103 SQUARE FEET OF LAND,)	
LOCATED AT 40-46 HARVARD)	
STREET, SITUATED IN WESTWOOD,)	
MASSACHUSETTS; MORTIMER B.)	
ZUCKERMAN AND EDWARD H. LINDE,)	
TRUSTEES OF THE 40-46 HARVARD)	
STREET TRUST, OWNERS; AND)	
UNKNOWN OTHERS,)	
)	
Defendants.)	
)	

ASSENTED TO MOTION OF MORTIMER B. ZUCKERMAN AND
EDWARD H. LINDE, TRUSTEES, FOR AN ORDER
TO DISBURSE FUNDS

Mortimer B. Zuckerman and Edward H. Linde, Trustees of the 40-46 Harvard Street Trust, (the "Trustees") move this Honorable Court for an Order authorizing and directing the Clerk of this Court to disburse to them the principal sum of \$51,000, plus any accumulated interest, which principal sums was deposited by the National Railroad Passenger Corporation ("Amtrak") on or about December 3, 2003 as Amtrak's estimate of the just compensation for the interests in the Trustees' property taken by Amtrak.

As grounds for this motion, the Trustees state:

1. On or about December 3, 2003, Amtrak filed a Complaint in Condemnation and Declaration of Taking with respect to an easement for railroad purposes in 5,103 square feet of

land, being part of a parcel known as Plat 37, Lot 16 on the current tax assessor's map for the Town of Westwood.

2. In connection with filing the Complaint and the Declaration of Taking, Amtrak deposited with the Clerk of Court the sum of \$51,000 as its estimate of the just compensation due to the owners as a result of the taking and for the use and benefit of the persons and entities thereto.

3. Amtrak's Assented to Motion for Immediate Possession was allowed, and Amtrak has entered into possession of the property described in the Declaration of Taking.

4. Amtrak's title in the easement described in the Declaration of Taking has vested.

5. The Trustees are the owners in fee of the property that was subject to the taking by Amtrak, and they are the only persons or entities entitled to damages as a result of the taking.

6. A proposed form of Order is attached hereto.

Respectfully submitted,

MORTIMER B. ZUCKERMAN AND
EDWARD H. LINDE, TRUSTEES OF THE
40-46 HARVARD STREET TRUST,

By their Attorneys,

MASTERMAN, CULBERT & TULLY, LLP

By: /s/ Neal C. Tully
Neal C. Tully (BBO#504280)
One Lewis Wharf
Boston, MA 02110
(617) 227-8010

Assented to:

NATIONAL RAILROAD PASSENGER
CORPORATION

By its Attorneys,

CHOATE, HALL & STEWART

By: /s/ Eric W. Wodlinger
Eric W. Wodlinger (BBO #531960)
Johanna W. Schneider (BBO #643744)
Exchange Place
53 State Street
Boston, MA 02109
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Date: June 3, 2005